

REMARKS

The present amendment is responsive to the Final Office Action mailed February 26, 2004. Applicants hereby request a two-month extension of time extending the period for response from May 26, 2004 to July 26, 2004.

Claims 1-42 were rejected under 35 USC §101, for being directed to non-statutory subject matter. Reconsideration and withdrawal of this rejection are respectfully requested.

The Office noted that "use of a technological device, such as a computer ... is required for said claims to be considered within the technological arts and thus patentable." As requested, the independent claims have been amended to recite, in the body of the claim, a computer and the use thereof in the context of the claimed invention. Reconsideration and withdrawal of the 35 USC §101 rejection is therefore respectfully requested.

Claims 1-3, 8, 9, 11-13, 15-17, 22,23, 25-27, 29-31, 36, 37 and 39-41 were rejected as being unpatentable over "The One to One Fieldbook" in view of "Marketing: Principles and Strategies". Reconsideration and withdrawal of these rejections is hereby respectfully requested.

At the outset, the Examiner will note that the subject matter of claims 14, 28 and 42 has been incorporated into each of the independent claims 1, 15 and 29, respectively. Claims 14, 28 and 42 have been cancelled.

In the outstanding Office Action, the Office points to the textbook Marketing: Principles and Strategy for a teaching of a customer lifecycle factor. However, the cited passage in this textbook, specifically page 314 and Fig. 11.5, does not teach a customer lifecycle factor, and does not, even in combination with "The One to One Fieldbook" reference, teach or suggest the

claimed invention. Examination of the applied "Marketing: Principles and Strategies" reference reveals that Fig. 11.5 is captioned "Marketing Strategies over a Brand's Life Cycle". Therefore, Fig. 11.5 shows the lifecycle of a brand, and not the lifecycle of a customer, as required by the claim. Page 312 of this reference is clear: "Figure 11.5 shows the traditional, bell-shaped sales curve for a product brand as it passes through the life cycle stages of introduction, growth, maturity and decline". The distinction between brand and customer is critical: the claims are drawn to methods, computer systems and medium "for categorizing an individual customer", and not for categorizing a product brand.

The Office acknowledges that "The One to One Fieldbook" does not teach a lifecycle factor that is related to both size and growth of the customer base, and points to the "Marketing: Principles and Strategies" textbook, as teaching such a customer lifecycle factor. However, as demonstrated above, this textbook does not contain any teaching of a customer lifecycle factor – only a teaching of the stages of a brand's (and NOT a customer's) lifecycle.

Therefore, even if the teachings contained within "The One to One Fieldbook" reference were to be combined with those of the "Marketing: Principles and Strategies" textbook, the claimed inventions would not emerge from the combination or in any way be suggested thereby. A combination of the two references could somehow relate the categorization of customers and a brand's lifecycle in some unspecified manner. However, the interpretation of the applied references urged by the Examiner is not supported by the actual teachings of the references themselves. Therefore, the applied combination could not have suggested the claimed invention to those of ordinary skill. Moreover, those of ordinary skill in this art would not have the requisite reasonable expectation of success that is now required to support an obviousness

rejection under 35 USC §103(a). Indeed, those of skill attempting to combine a brand's lifecycle into the customer categorizations of "The One to One Fieldbook" would not have succeeded in achieving the claimed invention, which requires the categorization of a customer according to a customer lifecycle factor, and not a brand's lifecycle.

To further define the phrase "customer lifecycle factor", each of the independent claims has been amended so as to add thereto the recitation:

the lifecycle factor being computed by determining an absolute value of a difference of the selected measure and by multiplying the determined absolute value with a percentage measure growth of the selected measure, both the difference and the percentage measure growth being determined over two selected historical periods according to the selected comparison method

The language added to each of the independent claims is drawn from claims 14, 28 and 42, which claims are cancelled herewith. In support of the rejection of these claims and this subject matter, the Office points to the Marketing Research in a Marketing Environment book. In the excerpted portion of this reference, the authors discuss cluster analysis, which seeks to group objects such that the intra-cluster differences between the cluster objects is less than the inter-cluster difference. The authors state: "The between cluster variation can be judged by assessing the distance between cluster centers in comparison with the distance of a cluster member to a cluster center." In carrying out the cluster analysis, the authors advocate the use of eigen-vectors or weights and the "nearest neighbor method", which includes finding the distance between two objects.

It is to be noted, however, that the claimed invention is not in any way related to cluster analysis or eigen-vectors. Moreover claimed invention is not a way to determine the distance between two points. It is apparent that a combination of the primary reference "The One to One Fieldbook" and "Marketing Research in a Marketing Environment" would not result in the

claimed inventions. Indeed, the claimed inventions are wholly unconcerned with cluster analysis, eigen-vectors, the nearest neighbor method or finding "those two objects having the shortest distance", as noted in the outstanding Office Action. Therefore, combining these references would not teach or suggest the claimed invention, which does not claim any of the concepts of this secondary reference. Therefore, even if the person of ordinary skill were to combine the two applied references, the claimed inventions would not result. Missing and unsuggested from the applied combination is the recitation

the lifecycle factor being computed by determining an absolute value of a difference of the selected measure and by multiplying the determined absolute value with a percentage measure growth of the selected measure, both the difference and the percentage measure growth being determined over two selected historical periods according to the selected comparison method

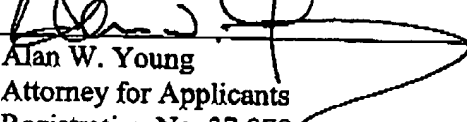
which is present in each of the independent claims. The simple fact is that none of the applied combinations of references teach the claimed manner of computing the customer lifecycle factor, nor any manner of categorizing an individual customer based upon a lifecycle factor, and much less a lifecycle factor that is computed in the manner explicitly claimed in each of the independent claims. Mere descriptions of brand lifecycles, cluster analysis and computing the shortest distance between two points do not rise to the level of supporting a proper 35 USC §103(a) rejection of claims that recite no such subject matter. Reconsideration and withdrawal of the obviousness rejections to the independent claims are, therefore, respectfully requested.

As the rejections of the independent claims are believed to have been overcome, it is not believed necessary to discuss the rejection of the dependent claims in any detail at this time.

Applicants' attorney, therefore, respectfully submits that all claims are allowable and that the present application in condition for an early allowance and passage to issue. If any unresolved issues remain, please contact the undersigned attorney of record at the telephone number indicated below.

Respectfully submitted,

Date: _____

By: 
Alan W. Young
Attorney for Applicants
Registration No. 37,970

YOUNG LAW FIRM, P.C.
4370 Alpine Rd., Ste. 106
Portola Valley, CA 94028
Tel.: (650) 851-7210
Fax: (650) 851-7232

\\YI\server\YLF\CLIENTS\ORCL\5638\5638 AMEND.3.doc